

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Wildflower Telecommunications, LLC)	WC Docket No. 08-71
)	
Petition for Waiver of Section 54.802(a) and)	
Section 54.807(c) of the Commission's Rules)	
)	

**PETITION FOR WAIVER OF SECTION 54.802(a) AND SECTION 54.807(c) OF THE
COMMISSION'S RULES**

Pursuant to Section 1.3 of the Federal Communication Commission's ("Commission) Rule, 47 C.F.R. § 1.3, Wildflower Telecommunications, LLC (the "Company"; USAC Service Provider Identification Number: 143031741), by and through its attorney, C. Edward Watson, II of Foulston Siefkin, LLP, respectfully requests a waiver of the December 31, 2010 deadline to submit quarterly line count data used to calculate Interstate Access Support ("IAS"), as set forth in section 54.802(a) of the Commission's rules. The Company also requests a waiver of the December 30, 2010 deadline to submit quarterly line count data used to calculate high-cost loop ("HCL")/local switching support ("LSS") universal service support as set forth in section 54.307(c) of the Commission's rules. In support of its petition, the Company states as follows:

I. BACKGROUND AND INTRODUCTION.

Pursuant to section 54.802(a) of the Commission rules, in order to receive interstate access support, a competitive eligible telecommunications carrier ("ETC") must submit to the Universal Service Administrative Company ("USAC") the number of lines served by the competitive ETC in a given service area according to a specific schedule. Specifically, the Competitive ETCs must submit the September 30th quarterly line count data no later than December 31st.

In addition, pursuant to section 54.307(c) of the Commission rules, in order to receive high-cost universal service support, an ETC must submit to the USAC the number of lines served by the competitive ETC in a given service area according to a specific schedule. Competitive ETCs must submit the June 30th quarterly line count data no later than December 30th.

Wildflower is a small competitive local exchange carrier serving approximately 847 CLEC access lines, as of September 30, 2010, in South Central Kansas (study area code: 419016). At one point, the Company had a single individual dedicated for the responsibility of filing the required line count data. During the 2010 year the company president, Daniel Friesen, who was previously responsible for the filing of the line counts, transitioned this responsibility and trained the company CFO, Kent Hoskinson, to perform these duties in his place. As part of this transition, an electronic calendar with many regulatory deadlines was to be transferred to Mr. Hoskinson's electronic calendaring system. However, the electronic transition did not fully connect to Mr. Hoskinson's calendaring system. Although the company does not exclusively rely on the reminders of the company's regulatory deadline calendar, it was and is a very important tool for ensuring the Company complies with the numerous and variety of regulatory requirements of Universal Service Support. Separate from the failure of the Company's internal calendar system, Mr. Hoskinson was not receiving the email notifications of filing deadlines sent periodically by USAC.

Finally, in addition to the malfunction of a key calendaring tool and the missing email reminders during the last few working days in December 2010, both Mr. Hoskinson and Mr. Friesen were engaged in a separate crisis involving both the FCC and USAC to resolve an

apparent computer software problem of the FCC's accounts receivable system.¹ Consequently, the Company did not meet either the December 30th or 31st deadlines. On January 5th, however, the Company realized the missed deadlines and immediately electronically filed the required line counts the same day. The IAS line count deadline was only missed by four business days and the HCL/LSS line count deadline was only missed by three business days. The Company has never previously missed a USAC filing deadline. The Company, therefore, requests a waiver of the Commissioner's Rules and that the Commission accept the filings.

II. DISCUSSION.

The Commission's rules may be waived for good cause shown and "where the particular facts make strict compliance inconsistent with the public interest."² The Commission has made clear in several decisions in recent years that good cause exists and the public interest is advanced where ETCs (1) have filed the required data only days after the filing deadline, (2) have taken steps to ensure future compliance and, (3) will otherwise lose funding that could negatively impact universal service programs.³ Each of those circumstances is present here.

A. The Company Submitted the Filings Within Days of the Deadline.

The Commission has routinely granted petitions to waive quarterly filing deadlines where an ETC has inadvertently missed the deadline by a matter of days. In a recent order, the Commission granted the waivers of several petitioners who made required USAC filings

¹ See Exhibit A

² 47 C.F.R. § 1.3; *Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, CC Docket No. 96-45, 21 FCC Rcd 10155, 10156-57 ¶ 6 (2006) ("*Verizon Order*").

³ See *Verizon Order*; *Xfone USA, Inc. Petition for Waiver of Sections 54.307(c) and 54.802(a) of the Commission's Rules*, Order, WC Docket No. 08-71, 24 FCC Rcd 4813 (2009); *AT&T Communications of NY and AT&T Communications of California Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, CC Docket No. 96-45, 22 FCC Rcd 953 (2007) ("*AT&T Order*"); *NPCR, Inc. Petition for Waiver of Sections 54.802(a) of the Commission's Rules*, Order, CC Docket No. 96-45, 22 FCC Rcd 560 (2007) ("*NPCR Order*").

between one and fourteen business days after the deadlines. *See In re Petitions for Waiver of Universal Service High-Cost Filing Deadlines et al.*, Order, WC Docket No. 08-71, CC Docket No. 96-45, 25 FCC Rcd 843, 854-855 ¶ 22 (2010). In that case, the Commission found that by submitting the filing less than fourteen business days after the filing deadline, "the petitioners promptly remedied their errors." *Id.*

The Company electronically submitted its filing three and four business days, respectively, after the deadline. The Company discovered the missed filings well within the amount of time the Commission has previously found to justify granting a waiver.

B. The Company Has Taken Steps to Ensure Future Compliance.

The Commission has also looked favorably on requests for waivers of filing deadlines where an ETC has taken steps to eliminate future data submission deadline errors.⁴ The Company has committed to revise its internal procedures to ensure compliance with all future filing deadlines. First, the Company implemented a new procedure in which two persons, including the Company's president, are now responsible to verify that the quarterly reports are completed and submitted to USAC in a timely manner. Previously, only one person was responsible for filing the reports. Second, the Company corrected the electronic calendaring problem and subscribed all involved persons to it. Finally, the Company has asked USAC to update its email list where reminder notices are sent to include all applicable Company email addresses. When considering similar commitments to ensure compliance, the Commission has previously found that "strict enforcement of the filing deadline would disproportionately penalize [the ETC] when considered in light of its actions to remedy its

⁴ *AT&T Order*, 22 FCC Rcd at 955-56 ¶9; *NPCR Order*, 22 FCC Rcd at 563 ¶9; *Verizon Order*, 21 FCC Rcd at 10158 ¶10.

error.”⁵

C. Granting the Requested Waiver is in the Public Interest Because the Company Will Otherwise Lose Funding That Could Negatively Impact Universal Service Programs in South Central Kansas.

The Commission has recognized that where quarterly line count data have been filed only days late and corrective measures have been implemented, denying the waiver would “undermine [an ETC's] investments in its network, and thus its ability to ensure that customers have and maintain access to adequate services.”⁶ The Commission has determined that IAS and HCL/LSS support is critical to ensuring that consumers in all areas have access to affordable telecommunications services and that local exchange carriers can invest in their networks in the face of dramatically lower access charges. Grant of a waiver of Commission rules is necessary, in this instance, to prevent the Company from being adversely affected.

The Company is a small business, operating in a rural south-central Kansas service area, and the universal service support it receives constitutes a significant portion of its capital and operating budget for the rural area it serves. Receipt of universal service support, is critical to the Company's mission of providing affordable, high-quality telecommunications services to its subscribers and future subscribers in this high-cost area. Denying a waiver in this circumstance would be contrary to the public interest because requiring the Company to forego support for which it qualifies would cause the Company a significant financial hardship that would detrimentally affect its provision of service in rural Kansas. If the instant waiver is not granted, the Company will not only lose a quarter's IAS and HCL/LSS support, but it will also be required to repay most of the previous quarter's support. This is the Company's first failure to meet a USAC filing deadline, and strict enforcement of the filing deadline in this case would

⁵ *AT&T Order*, 22 FCC Rcd at 955 ¶6

⁶ *Verizon Order*, 21 FCC Rcd at 10 157 ¶8.

disproportionately disadvantage the Company and, ultimately, harm the very consumers intended to benefit from the federal universal service program.

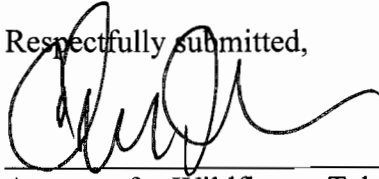
Finally, the requested waiver will not cause any hardship for USAC or other universal service fund recipients because the amount of universal service fund support received by the Company is de minimus compared to the overall size of the universal service fund, and because the USAC received the filings electronically only three and four business days, respectively, after the deadlines. Accordingly, the Commission's grant of the Company's requested waiver would enable the Company to continue to receive IAS and HCL/LSS support and to further the goals of universal service serving the public interest. No other party will be prejudiced by a grant of this waiver request and consumers in rural Kansas who are expecting continued telecommunications services would be harmed by its denial. USAC will not be prejudiced by the late filings, which were received only four business days after the deadline.

III. CONCLUSION

For the foregoing reasons, the Company respectfully requests that the Commission promptly grant its Petition for a Waiver of Section 54.802(a) and Section 54.807(c) Commission's Rules and direct USAC to accept the Company's form 525 quarterly interstate access support submission for line counts as of September 30, 2010 due December 31, 2010 and

the Company's form 525 quarterly high-cost loop/local switching support submission for line counts as of June 30, 2010 due December 30, 2010.

Respectfully submitted,



Attorney for Wildflower Telecommunications, LLC

C. Edward Watson, II
FOULSTON SIEFKIN LLP
1551 N. Waterfront Pkwy, Ste. 100
Wichita, KS 67206
Telephone: 316-291-9589
Facsimile: 866- 347-5153
Email: cewatson@foulston.com

Daniel P. Friesen, President
Wildflower Telecommunications, LLC
102 N Main
Buhler, KS 67522
PO Box 258
Buhler, KS 67522
Telephone: 620-543-5003
Facsimile: 866-459-2829
Email: [**daniel@ideatek.biz**](mailto:daniel@ideatek.biz)

January 6, 2010

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Wildflower Telecommunications, LLC)	WC Docket No. 08-71
)	
Petition for Waiver of Section 54.802(a))	
of the Commission's Rules)	

DECLARATION OF DANIEL P. FRIESEN

1. My name is Daniel Friesen. My business address is 102 N Main, PO Box 258, Buhler, KS 67522. I am the President of Wildflower Telecommunications. The statements in this declaration are based on my personal knowledge.

2. I have reviewed Wildflower Telecommunications, LLC's Petition for Waiver of Section 54.802(a) and Section 54.807(c) of the Commission's rules and declare under penalty of perjury that the foregoing is true to the best of my knowledge, information and belief.

Signature,



Daniel P. Friesen
President
Wildflower Telecommunications, LLC

Dated: January 6, 2011

Daniel P. Friesen

From: Daniel P. Friesen [daniel@ideatek.biz]
Sent: Wednesday, December 29, 2010 10:10 AM
To: 'ARINQUIRIES'
Cc: 'mnuma@usac.org'; 'Kent Hoskinson'
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Thank you.

Can you confirm this has been permanently corrected?

Thanks
Daniel

From: Iris Smoote [mailto:Iris.Smoote@fcc.gov] **On Behalf Of** ARINQUIRIES
Sent: Wednesday, December 29, 2010 10:08 AM
To: Daniel P. Friesen
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Daniel,

I am informed that the red light status has been removed.

Iris Smoote
Dell Services Federal Government (DSFG)
Federal Communications Commission
445 12th Street, SW - RM 1-A628
Washington, DC 20554
Direct Dial: 202-418-2076
Fax: 202-418-2843
Email: iris.smoote@fcc.gov

From: Daniel P. Friesen [mailto:daniel@ideatek.biz]
Sent: Wednesday, December 29, 2010 10:37 AM
To: ARINQUIRIES
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Iris:

Do you have an update for us?

Thanks
Daniel

From: Iris Smoote [mailto:Iris.Smoote@fcc.gov] **On Behalf Of** ARINQUIRIES
Sent: Tuesday, December 28, 2010 2:49 PM
To: Daniel P. Friesen
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Daniel,

I am notified they are working on your red light issue. This should be resolved in the morning. The system team is under staffed due to holiday season.

Regards,

~iris

Iris Smoote
Dell Services Federal Government (DSFG)
Federal Communications Commission
445 12th Street, SW - RM 1-A628
Washington, DC 20554
Direct Dial: 202-418-2076
Fax: 202-418-2843
Email: iris.smoote@fcc.gov

From: Daniel P. Friesen [<mailto:daniel@ideatek.biz>]
Sent: Tuesday, December 28, 2010 3:08 PM
To: ARINQUIRIES
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Iris:

Can you request this issue be escalated. We have been off and on the red light list for months now and it severely disrupts our disbursements.

Could you have a manger call me back please?

Thanks
Daniel Friesen
President
IdeaTek / Wildflower
620-543-5003

From: Iris Smoote [<mailto:Iris.Smoote@fcc.gov>] **On Behalf Of** ARINQUIRIES
Sent: Tuesday, December 28, 2010 9:14 AM
To: Daniel P. Friesen
Subject: RE: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Daniel,

I sent your information over to the AR System team, and they are working your issue I will let you know the out come once I am notify.

Regards,

~iris

Iris Smoote
Dell Services Federal Government (DSFG)
Federal Communications Commission
445 12th Street, SW - RM 1-A628
Washington, DC 20554
Direct Dial: 202-418-2076
Fax: 202-418-2843
Email: iris.smoote@fcc.gov

From: Daniel P. Friesen [<mailto:daniel@ideatek.biz>]
Sent: Monday, December 27, 2010 4:13 PM
To: ARINQUIRIES
Cc: mnuma@usac.org; 'Kent Hoskinson'

Subject: Attn Iris - Re:NOTICE OF WITHHOLDING OF ACTION - 143031741

Importance: High

Iris:

Thank you for your time today. We will await your call back.

As you are aware, this situation is continuing to cause us delayed USAC payments. From my understanding there is a problem with the FCC software system which has not recorded our payment. See below and attached for proof of payment. Please take us off the red light status as soon as possible and let us know on status of a permanent resolution to this issue.

Thank you,
Daniel Friesen
President
IdeaTek / Wildflower
620-543-5003

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson

Sent: Thursday, December 23, 2010 4:31 PM

To: Daniel P. Friesen

Subject: Fwd: NOTICE OF WITHHOLDING OF ACTION - 143031741

FYI...

----- Forwarded message -----

From: **Marcel Numa** <mnuma@usac.org>

Date: Thu, Dec 23, 2010 at 4:06 PM

Subject: RE: NOTICE OF WITHHOLDING OF ACTION - 143031741

To: Kent Hoskinson <kent@ideatek.biz>

Kent,

I am sorry to hear about this current situation. I will check with Finance and will get back to you next week.

Merry Christmas.

Best,

Marcel Numa

Program Manager of High Cost

Universal Service Administrative Company

2000 L Street, N. W. Suite 200

Washington, D. C. 20036

Tel: 202-776-0200

Fax: 202-776-0080

Email: mnuma@usac.org

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson
Sent: Thursday, December 23, 2010 4:58 PM
To: Marcel Numa
Subject: Re: NOTICE OF WITHHOLDING OF ACTION - 143031741

Marcel --

Greetings & Happy Holidays ! I hope all is well with you. I'm writing to let you know that we still appear to have a problem. We are continuing to receive "Notice of Withholding Action" for the bill reference below. The most recent notice arrived 12/23/2010. I think the notice has resulted in our November 2010 HCL, IAS, ISS being held. Would appreciate it if you could assist in helping us resolve the matter ? Let me know if there is any additional information that you require.

Thanks,

Kent Hoskinson

Wildflower Telecom

FRN: 0015798648

[620-543-2580](tel:620-543-2580) x 6008

kent@ideatek.biz

On Fri, Dec 10, 2010 at 10:17 AM, Marcel Numa <mnuma@usac.org> wrote:

Good morning Kent,

This email is just to follow up to make sure all is well and that you've received your all payments by now.

Please do not hesitate to contact me if you have any questions.

Best,

Marcel Numa

Program Manager of High Cost

Universal Service Administrative Company

2000 L Street, N. W. Suite 200

Washington, D. C. 20036

Tel: 202-776-0200

Fax: 202-776-0080

Email: mnuma@usac.org

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson
Sent: Thursday, December 02, 2010 5:22 PM
To: Marcel Numa
Subject: Re: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741

Marcel --

No additional debts that we're aware of. Appreciate your help on this. Hope your feeling better.

Kent

On Thu, Dec 2, 2010 at 4:04 PM, Marcel Numa <mnuma@usac.org> wrote:

Kent,

I checked with our Finance Department and I was advised that your High Cost payment was held pursuant to debt owed to the FCC as of 11/22/2010. Presuming Wildflower Telecommunications, LLC has not incurred any new debts, your payment(s) will be released tomorrow.

Please do not hesitate to contact me if you have any questions.

Best,

Marcel Numa

Program Manager of High Cost

Universal Service Administrative Company

2000 L Street, N. W. Suite 200

Washington, D. C. 20036

Tel: 202-776-0200

Fax: 202-776-0080

Email: mnuma@usac.org

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson
Sent: Thursday, December 02, 2010 4:30 PM
To: Marcel Numa
Subject: Fwd: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741

Marcel --

Copied your email wrong. Thanks for the callback.

Kent

----- Forwarded message -----

From: **Kent Hoskinson** <kent@ideatek.biz>
Date: Thu, Dec 2, 2010 at 3:06 PM
Subject: Fwd: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741
To: muma@usac.org

Marcel --

Thanks for the call back today & the assistance with our account. Per our discussion listed below are the months where we have accrued support but have not yet received funds. Also, by way of background, the attached email string is copy of our correspondence with FCC.

High Cost Funds Accrued but not Received:

August 2010

HCL: \$185, IAS: \$2003, LSS: \$714

September 2010

HCL: \$193, IAS: \$2,488, LSS: \$743

October 2010

HCL: \$189, IAS: \$3,092, LSS \$698.

Let me know if you need additional information or if you have questions.

Thanks,

Kent

----- Forwarded message -----

From: **ARINQUIRIES** <ARINQUIRIES@fcc.gov>
Date: Wed, Nov 24, 2010 at 7:54 AM

Subject: RE: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741
To: Kent Hoskinson <kent@ideatek.biz>, ARINQUIRIES <ARINQUIRIES@fcc.gov>
Cc: "Daniel P. Friesen" <daniel@ideatek.biz>

Mr. Hoskinson,

What agency are you expecting support funds from? I forwarded your proof of payment to USAC and they informed me that you are not on their Red Light list.

Stephen M. French
Protiviti Government Services
OMD-Financial Operations
Office: 2-A629
Direct Line: 202-418-1878
Fax: 202-418-7869

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson
Sent: Tuesday, November 23, 2010 4:20 PM
To: ARINQUIRIES
Cc: Daniel P. Friesen
Subject: Re: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741

Thank you.

Kent

On Tue, Nov 23, 2010 at 2:22 PM, ARINQUIRIES <ARINQUIRIES@fcc.gov> wrote:

The FCC will forward proof of payment of your debt to USAC on 11-23-10. Please contact USAC within 1-2 business days to verify that your account status has been updated. 1-888-641-8722.

Stephen M. French
Protiviti Government Services
OMD-Financial Operations
Office: 2-A629
Direct Line: 202-418-1878
Fax: 202-418-7869

From: khoskinson@g.ideatek.biz [mailto:khoskinson@g.ideatek.biz] **On Behalf Of** Kent Hoskinson
Sent: Tuesday, November 23, 2010 1:50 PM
To: ARINQUIRIES
Cc: Daniel P. Friesen; customersupport@usac.org
Subject: Fwd: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741

Payment of invoice 10RE009742, referenced below, was remitted 9/29/2010 with Remittance Voucher Form 159-E(see attached). The check for payment cleared our bank 10/05/2010 (see attached).

Please review and advise of any action we need to take to insure payment credited to our account. Since the matter is preventing payment of related Wildflower Telecom support funds would appreciate a prompt resolution & release for payment.

Regards,

15798648

[620-543-2580](tel:620-543-2580) x 6 Kent Hoskinson

Wildflower Telecom

FRN: 00008

kent@ideatek.biz

----- Forwarded message -----

From: **Daniel P Friesen** <daniel@ideatek.biz>

Date: Tue, Nov 23, 2010 at 9:34 AM

Subject: Fw: NOTICE OF WITHHOLDING OF ACTION - 143031741

To: Kent Hoskinson <kent@ideatek.biz>

Sent from my IdeaTek BlackBerry

From: <CustomerService@bcd.universalservice.org>

Date: Tue, 23 Nov 2010 10:15:50 -0500

To: <daniel@IdeaTek.biz>

Subject: NOTICE OF WITHHOLDING OF ACTION - 143031741

Universal Service Administrative Company
Billing, Collections & Disbursement Department
For billing inquiries call (888) 641-8722

Date:11/23/2010

Daniel P Friesen

102 N Main
PO Box 348
Buhler, KS 67522

SPIN:143031741

NOTICE OF WITHHOLDING OF ACTION

As required by 47 C.F.R. § 1.1910(a)(1), we have reviewed our accounting records and determined that as of 11/23/2010, you or an entity sharing the same Taxpayer Identification Number (204167976) is delinquent on the payment of a debt owed to the Federal Communications Commission (FCC):

Bill Number	Amount	Entity Name	Debtor FCC Registration Number (FRN)
	0	Wildflower Internet LLC	0016098857
10RE009742	126.25	Wildflower Telecommunications, LLC	0015798648

Pursuant to 47 C.F.R. § 1.1910(b), a disbursement for your SPIN in the amount of (\$0) is currently being withheld by USAC. No further payments will be made until the debt is fully satisfied and/or arrangement has been made to pay the delinquent debt. If no payment is made within 30 days of the date of this letter, any pending applications and requests for benefits may be dismissed.

Please be advised that any additional applications or requests for benefits from the FCC or its reporting components, including

but not limited to support from the Universal Service Fund, payments from the Telecommunications Relay Services Fund, or the issuance of telephone numbers from the North American Numbering Plan Administrator, will be reviewed to determine if any delinquent debts are outstanding.

If you have any questions regarding the nature of the debt owed to the FCC, please contact them in writing or send an email using the information below:

Address:
Federal Communications Commission
Attn: Revenue and Receivables Operations Group
445 - 12th Street S.W., Room 1-A821
Washington, DC 20554

E-mail: ARINQUIRIES@fcc.gov

Sincerely,

USAC Billing, Collections & Disbursements Department

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Kent

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Kent

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Kent

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Kent

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Kent

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Kent